

EXHIBIT 23

1
2 IN THE UNITED STATES BANKRUPTCY
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 IN RE:

6 Case No.:

7 19-13895-jlg

8 ORLY GENDER,

9 Debtor.

10 -----X

11
12 July 15, 2020
13 9:48 a.m.

14 *3RD REVISED*

15 INTERNET STREAMING EXAMINATION BEFORE
16 TRIAL of SAGI GENDER, the Non-Party Witness in
17 the above-entitled action, taken on behalf of
18 the aforementioned parties, held at the above
19 time and place, and taken before Dorene Glover,
20 a reporter and Notary Public within and for the
21 State of New York.

22
23
24
25 Job No. 181828

1 GENGER

2 MR. LEBOV: Yeah, I'm here. You
3 have my information. I e-mailed it to
4 you. Paul Lebov on behalf of Dalia
5 Genger.

6 MR. HERSCHMANN: We also have John
7 Gonzalez. He is a paralegal. Can you
8 swear in the witness, please?

9 THE WITNESS: Dorene, I would like
10 to affirm.

11 S A G I G E N G E R,
12 the witness herein, having first been duly
13 sworn by a Notary Public of the State of New
14 York, was examined and testified as follows:

15 EXAMINATION

16 BY MR. HERSCHMANN:

17 Q. Mr. Genger, my name is Eric
18 Herschmann. I'm going to ask you a series of
19 questions today. I ask that you listen to my
20 questions very carefully and only answer to the
21 question that I pose to you. Is that okay?

22 A. I'll do my best.

23 Q. And just before we get started, Mr.
24 Genger, are you familiar with the phone number
25 501-221-7574?

1 GENGER

2 you a release between 2014 and August of 2019
3 while she was still trustee -- or in June of
4 2019, when she was still trustee?

5 A. 'Cause I didn't ask her for it.

6 Q. So let's look at and if you can
7 pull up the release, it states, Sagi-Dalia
8 33452.

9 MR. DELLAPORTAS: Will you be
10 e-mailing this?

11 MR. HERSCHMANN: You produced this
12 last night. We'll have it e-mailed
13 around.

14 MR. DELLAPORTAS: I produced
15 10,000 pages.

16 MR. HERSCHMANN: You need this
17 e-mailed around to you we will take care
18 of it.

19 I want to look at this agreement,
20 sir. First of all, who drafted this
21 document, sir?

22 MR. DELLAPORTAS: I need the
23 witness to hold off answering until I
24 get the document by e-mail.

25 MR. HERSCHMANN: Mr. Dellaportas,

1 GENGER

2 Mr. Oldner?

3 A. Yes, I believe so.

4 Q. Was Mr. Dellaportas with you?

5 A. I don't believe so. I don't recall
6 that he was there.

7 Q. Did you bring this document with
8 you when you came to Texas?

9 A. I don't remember seeing this
10 document before I received it.

11 Q. I'm sorry, I didn't --

12 A. No, I don't recall seeing this
13 document before I received it.

14 Q. Who did you receive it from?

15 A. Mr. Oldner.

16 Q. Do you know who drafted it on
17 behalf of Mr. Oldner?

18 A. I do not.

19 Q. Did you ask Mr. Oldner if this
20 document would give you a release?

21 A. He did this in response to a
22 request from me, yes.

23 Q. And did you actually ask him to
24 also include a release of your wife?

25 A. I don't remember if I asked him for

1 GENGER

2 it or not. Maybe it will be.

3 Q. So did he know Elana, E-L-A-N-A,
4 Genger? Did he know her?

5 A. He doesn't knows her today. I
6 don't think he knows her even today. I don't
7 think that they have ever met.

8 Q. She didn't go to the bakery with
9 you, did she?

10 A. No, she was not in Arkansas.

11 Q. Did you ask Mr. Oldner why he
12 should be releasing your wife on behalf of the
13 Orly Genger trust?

14 A. I don't remember that discussion,
15 no. I remember asking -- I may have said that
16 also, but I don't remember it.

17 Q. Tell us everything you can recall
18 you discussed with Mr. Oldner about any release
19 of you, your wife, or your mother in
20 relationship to the Orly Genger trust?

21 A. I said I'd like to close this thing
22 out, and that the litigation breached the
23 fiduciary duty. I forgot the name of the other
24 thing, but whatever. There was a trial but
25 there was zero damages that the matter was

1 GENGER

2 disclosed of. That there was still
3 theoretically a possibility of an appeal
4 nevertheless we wanted to work together and
5 feel that if we wanted to work together in
6 common 'cause it would be a lot healthier if we
7 were not adverse to each other and that with
8 respect to my mother, that there was a clause,
9 we trust adventure which specifically
10 envisioned the trustee releasing his or her
11 predecessor. And that's it. That I asked for
12 it and he ultimately agreed to it.

13 Q. Did he ask for any documentation to
14 support your position, sir?

15 A. He asked for a lot of -- I don't
16 know. We discussed a lot of documents. I
17 don't know that he was asking or dealing with
18 the stuff in connection with considering the
19 release or considering what's going on more
20 widely.

21 Q. Mr. Genger, do you know what an
22 automatic stay is?

23 A. I'm familiar with an automatic
24 stay. Yes.

25 Q. Sir, let's just talk about what you

1 GENGER

2 sir?

3 A. I don't know what records she keeps
4 or doesn't keep.

5 Q. Sir, let's go back to the
6 schedules. So on page 37 is where we were.
7 You'd agree there was a reference to turn over
8 the alleged --

9 A. Stop. Stop. You're speaking as
10 though I have the agreement in front of me. I
11 don't. I can't give you an answer.

12 Q. We'll pull it back up. Again, sir,
13 not a problem. On page 37, sir, you see that
14 it's Dalia Genger as Trustee of Orly Genger
15 1993 Trust seeking turnover alleged property to
16 trust; do you see that, sir?

17 A. Yes.

18 Q. Then, sir, we're going to show you
19 pages 57, 61, and 63 of Orly's scheduled
20 disclosures and you're going to see, sir, the
21 first one is the Dalia Genger, Sagi Genger,
22 Orly Genger Southern District case which is
23 where the turnover action is. The next one, if
24 you can read to us, what does it say on the
25 right side of this caption page, sir?

1 GENGER

2 A. New York County, Surrogates Court.

3 Q. The right side, sir, the big thing
4 that says petition. I want you to read that.

5 A. Petition for turnover of trust
6 property and other relief.

7 Q. Sir, did you understand that the
8 trust property that was filed there related to
9 the seven and a half -- two seven and a half
10 million dollar promissory notes?

11 A. Yes.

12 Q. Sir, why don't we look at the next
13 page. Why don't you read to us what it says
14 there under amended?

15 A. I can't see what you're discussing.

16 Q. The big heading that says amended
17 petition, can you read that aloud for us
18 please?

19 A. Amended petition for turnover of
20 property and other relief.

21 Q. That also relates to the two seven
22 and a half million dollar promissory notes,
23 right, sir?

24 A. Yes.

25 Q. Sir, I want to go back for a moment

1 GENDER

2 C E R T I F I C A T E

3
4 STATE OF NEW YORK)
5 ss.:)
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I, DORENE GLOVER, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and that
such examination is a true record of the
testimony given by that witness.

I further certify that I am not related
to any of the parties to this action by blood
or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 22nd day of July, 2020.



DORENE GLOVER